

**DECISION  
GRAFTON PLANNING BOARD**

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2018 AUG 28 AM 9:00

**SPECIAL PERMIT (SP 2018-12) & SITE PLAN APPROVAL  
Installation of Underground Propane Tanks in the Water Supply Protection Overlay  
District  
14 Hudson Avenue, Grafton, MA**

**Michael Siemaszko & Erica Siemaszko (Applicant/Owner)**

Decision of the Grafton Planning Board (hereinafter the Board) on the petition of Michael & Erica Siemaszko (hereinafter the Applicant) of 14 Hudson Avenue, Grafton MA 01519, for a Special Permit (SP 2018-12) and Site Plan Approval under Section 7.4.d.7 (Water Supply Protection Overlay District –Special Permit Uses) of the Grafton Zoning By-law (ZBL) to allow the installation of underground propane tanks in the Water Supply Protection Overlay District (WSPOD) for property located at 14 Hudson Avenue, Grafton (hereinafter the Site), and shown on Grafton Assessor's Map 73, Lot 2 and owned by Michael & Erica Siemaszko (hereinafter the Owner) by deed recorded in the Worcester District Registry of Deeds in Book 56483, Page 359.

**I. BACKGROUND**

The application for the above referenced Special Permit & Site Plan Approval (hereinafter Application) was submitted on July 20, 2018. Notice of the public hearing and the subject matter thereof was published in the Grafton News on July 26, 2018 and August 2, 2018 and posted with the Town Clerk's Office and abutters were notified by First Class Mail. The public hearing on the Application was held on August 13, 2018. At the public hearing, all those wishing to speak to the petition were heard. Following public input the hearing was closed on August 13, 2018.

The following Board members were present throughout the public hearing: Chairman Robert Hassinger, Vice Chairman Linda Hassinger, Clerk Sharon Carroll-Tidman, Members David Robbins, Michael Scully, and Associate Member Paul Monroe. At the hearing, no one was present for the Application. During the Board's deliberation on the decision on August 27<sup>th</sup>, Chairman Hassinger appointed Mr. Monroe to vote on the decision due to the absence of Ms. Carroll-Tidman.

**II. EXHIBITS**

The following items were submitted to the Board for its consideration of this application:

1. Unbound application materials submitted by the Applicant, received on July 20, 2018, including the following:
  - Application for Special Permit; received by the Town Clerk July 20, 2018; 1 page.
  - Application for Site Plan Approval; received by the Town Clerk July 20, 2018; 1 page.

- Certificate of Good Standing; signed by Treasurer /Collector June 27, 2018; 1 page
  - Certified Abutters List; signed by Assessors Office Manager; dated June 28, 2018; 1 page.
2. Plan: Subsurface Disposal System – 14 Hudson Avenue, Grafton, MA; prepared by H.S. & T. Group, Inc.; 24"x36"; dated February 27, 2018; received July 20, 2018; 2 sheets.
  3. Public Hearing Notice; received by the Town Clerk on July 23, 2018; 1 page.
  4. Email correspondence: Re: 14 Hudson Avenue – Erica & Michael Siemaszko – below ground propane tank installation; Conservation Agent; dated & received July 23, 2018; 1 page.
  5. Email correspondence: Re: 14 Hudson Avenue – Erica & Michael Siemaszko – below ground propane tank installation; Police Chief; dated & received July 23, 2018; 1 page.
  6. Email correspondence: Re SP 2018-12/SPA; Board of Health; dated & received July 23, 2018; 1 page.
  7. Email correspondence: Re: 14 Hudson – Water Supply; Conservation Agent; dated & received August 13, 2018; 1 page.
  8. Email correspondence: Re: 14 Hudson Ave. – Water Supply; Board of Health; dated & received August 13, 2018; 1 page.
  9. Email correspondence: Re: 14 Hudson – Water Supply; Public Works Supervisor; dated & received August 13, 2018; 1 page.

### **III. FINDINGS**

At their meeting of August 27, 2018, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Hassinger) voted 5-0 in **FAVOR** to make the following Findings:

1. That determinations regarding the following findings are based upon the plans identified in this Decision, as well as the information and Exhibits submitted and presented in association with the Application.
2. That determinations regarding the following findings are also predicated upon satisfactory completion of the work shown on the Plans in accordance with this Decision, as well as all applicable Federal, State and Local regulations, except where modified by this Decision.
3. That the Site, as identified by the Applicant and shown in Exhibit #1 & #2 of this Decision, is located within the Low Density Residential (R40) zoning district and the Water Supply Protection Overlay District (WSPOD).

4. That per ZBL Section 7.4.D.7 any underground fuel or other storage tanks, including any tanks or collection pits (wholly or partially below mean ground elevation) are authorized with the issuance of a Special Permit within the WSPOD. The Applicant is proposing to install one propane tank with capacity to service a single-family home.
5. That during the public hearing the Board and the Town Planner discussed the impacts the proposed underground propane tank would have on the water supply. It was noted that propane does not pose a threat to the water supply as it is not considered a toxic chemical.
6. The Board notes that the Conservation Commission, Board of Health and Public Works Superintendent had no objections to the proposed installation of the underground propane tank and do not view it as a potential threat to ground water.
7. That ZBL Section 1.3.3.2 requires that the procedure for Site Plan Review be incorporated into the procedure for reviewing Special Permits. Section 1.3.3.3 of the ZBL defines the procedure for Site Plan Review, including a description of the plans and materials to be submitted to the Planning Board. The Board further finds that Section 1.3.3.4 of the ZBL allows an applicant to request waivers from certain requirements of the Site Plan Review procedure. No waivers were requested.
8. That with respect to the nature of this particular Application for installing an underground propane tank within the WSPOD as described within Exhibit #1 of this Decision, the resulting site plan, is not contradictory or inconsistent with the intent and purposes set forth in Sections 1.2 and 1.3.3.1 of the ZBL.
9. With regard to Section 1.5.5(a) of the ZBL that based upon the Findings stated within this Decision ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe do not change. The Board finds that this requirement does not apply to the Application based on the nature of the proposal.
10. With regard to Section 1.5.5(b) of the ZBL, that based upon the Findings stated within this Decision, off-street parking and loading areas where required, and the economic, noise, glare, or odor effects of the Special Permit on adjoining properties and properties generally in the district does not change. The Board finds that this requirement does not apply to this Application based on the nature of the proposal.
11. With regard to Section 1.5.5(c) of the ZBL, that based upon the Findings stated within this Decision, refuse collection or disposal and service areas do not change. The Board finds that this requirement does not apply to this Application based on the nature of the proposal.

12. With regard to Section 1.5.5(d) of the ZBL, that based upon the Findings stated within this Decision, screening and buffering with reference to type, dimensions and character are not applicable to this Application based on the nature of the proposal.
13. With regard to Section 1.5.5(e) of the ZBL, that based upon the Findings stated within this Decision, signs and exterior lighting with reference to glare, traffic safety, economic effect is compatible and in harmony with properties in the district. The Board finds that this requirement does not apply to this Application based on the nature of the proposal.
14. With regard to Section 1.5.5(f) of the ZBL that based upon the Findings stated within this Decision the required yards and other open space requirements do not change. The Board finds that this requirement does not apply to this Application based on the nature of the proposal.
15. With regard to Section 1.5.5(g) of the ZBL, that the proposed underground propane tanks and its use (as presented in the Exhibits stated within this Decision) is generally compatible with adjacent properties and properties in the district.
16. With regard to Section 1.5.5(h) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, there will not be any significant adverse impact on any public or private water supply.
17. With regard to Section 1.5.5(i) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, there will not be any significant or cumulative impact upon municipal water supplies.
18. With regard to Section 1.5.5(j) of the ZBL, that based upon the Findings stated within this Decision, protection of important historic, cultural and scenic landscapes with regard to the proposed development does not change. No resources of these kinds were identified during the course of the public hearing.

#### **IV. DECISION and CONDITIONS**

At their meeting of August 27, 2018, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Ms. Hassinger) voted 5-0 to **APPROVE** the Special Permit (2018-12) and Site Plan Approval with the following conditions:

1. Unless specifically modified by this Decision, the underground propane tank authorized by this Special Permit shall be installed in accordance with, and maintained to conform to, the Conditions stated within this Decision, all applicable requirements of the Grafton Zoning Bylaw, and all applicable Federal, State and Local regulations.

2. All other applicable Federal, State or Local permits and approvals for the proposed use shall be secured by the Applicant at the appropriate time, and copies of all pertinent documents regarding said permits and approvals shall be filed with the Planning Board in a timely manner.
3. In accordance with ZBL Section 1.5.8, this Special Permit and Site Plan Approval shall lapse within one (1) year from the date of the expiration of the appeal period if substantial use, or construction, has not been commenced except in accordance with the law. Any request for an extension of said period of validity shall be considered a Modification of this Special Permit, and such request shall be filed and reviewed in accordance with the procedure specified in ZBL Section 1.5.
5. The Special Permit and construction of the underground propane tank shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and a copy of the recording provided to the Planning Board and the Building Department to include the WDRD Book and Page Number and/or Instrument Number.
6. By recording this Special Permit Decision in the Worcester District Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit Decision.
7. Any inability, failure or refusal by the Applicant to comply with the requirements of this Special Permit Approval, when notified of failure of compliance, shall be grounds for the immediate denial of building, construction or occupancy permits with respect to this project.

**V. RECORD OF VOTE**

Constituting a majority of the Planning Board, the following members voted to **APPROVE** the Applicant's Special Permit (SP 2018-12) & Site Plan Approval for the installation of an underground propane tank as described in this Decision with Conditions at 14 Hudson Avenue, Grafton, based on the information received at the public hearing, submittals, and the aforementioned Findings:

Robert Hassinger, Chairman

David Robbins, Member

Linda Hassinger, Vice Chairman

Michael Scully, Member

Paul Monroe, Associate Member

**DATE OF FILING OF DECISION:**

**BY ORDER OF THE BOARD**

  
Joseph Layden, Town Planner

8-28-2018  
Date

cc:

- Applicant/Owner
- Building Inspector
- Conservation Commission
- Zoning Board of Appeals

**To Whom It May Concern:** This is to certify and verify that twenty (20) days have elapsed since this decision was filed in the Town Clerk's office and that no appeals have been filed in reference to same, or that, if such appeal has been filed, it has been dismissed or denied.

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Kandy Lavallee, Town Clerk

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Date